

UNITED STATES DISTRICT COURT

for the  
Northern District of Texas

FILED  
JAN 24 2017

CLERK, U.S. DISTRICT COURT

By Deputy

Case No. 4:17-MJ-073

In the Matter of the Search of  
(Briefly describe the property to be searched  
or identify the person by name and address)

One Samsung Galaxy Note 3, Serial number  
R38F4029YSB, currently located at Fort Worth DEA

APPLICATION FOR A SEARCH WARRANT

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property (identify the person or describe the property to be searched and give its location):

One Samsung Galaxy Note 3, Serial number R38F4029YSB, currently located at Fort Worth DEA as described in Attachment A

located in the Northern District of Texas, there is now concealed (identify the person or describe the property to be seized):

Digitally stored data, to include but not limited to: text or number files, photographs, video recordings, and audio recordings

The basis for the search under Fed. R. Crim. P. 41(c) is (check one or more):

- ☒ evidence of a crime;  
☐ contraband, fruits of crime, or other items illegally possessed;  
☐ property designed for use, intended for use, or used in committing a crime;  
☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

Code Section	Offense Description
21 U.S.C. § 846	Conspiracy to Possess Methamphetamine with Intent to Distribute

The application is based on these facts:

See attached Affidavit.

- ☐ Continued on the attached sheet.  
☐ Delayed notice of \_\_\_\_\_ days (give exact ending date if more than 30 days: \_\_\_\_\_) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.

Sworn to before me and signed in my presence.

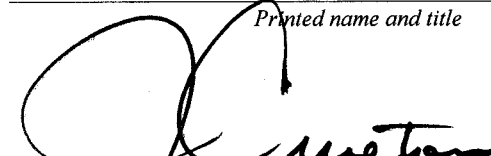
Date: 1/24/17

City and state: Fort Worth, Texas

  
Applicant's signature

Task Force Officer Tim Kasterke, DEA

Printed name and title

  
Judge's signature

Jeffrey L. Cureton, U.S. Magistrate Judge

Printed name and title

**Affidavit in Support of Application for a Search Warrant**

1. Affiant Tim Kasterke is a Texas Peace Officer employed by the Fort Worth Police Department and is currently assigned to the United States Drug Enforcement Administration as a Task Force Officer (TFO) for the Fort Worth District Office, FWDO. Affiant has had numerous hours of training and experience in the investigation of narcotics trafficking and drug trafficking organizations, DTOs.
2. This Affidavit is based upon Affiant's personal investigation and upon information received from other law enforcement officers and agents who are identified herein. Not all of the facts related to this investigation known to the Affiant or other investigators are contained in this affidavit. This affidavit is made in support of an application for a search warrant for the following cellular telephone:
  - a. Black and silver colored Samsung Galaxy Note 3 cellphone, model SM-N900A, FCC ID A3LSMN900A, Serial number R38F4029YSB, IMEI #358579056363741

which is presently located at the DEA Fort Worth District Office (FWDO) 801 Cherry Street, Suite 700, Fort Worth, Texas.

**TECHNICAL TERMS**

3. Based on my training and experience, I use the following technical terms to convey the following meanings:
  - a. Wireless telephone: A wireless telephone (or mobile telephone, or cellular telephone) is a handheld wireless device used for voice and data communication through radio signals. These telephones send signals through networks of transmitter/receivers, enabling communication with other wireless telephones or traditional "land line" telephones.

A wireless telephone usually contains a "call log," which records the telephone number, date, and time of calls made to and from the phone. In addition to enabling voice communications, wireless telephones offer a broad range of capabilities. These capabilities include: storing names and phone numbers in electronic "address books;" sending, receiving, and storing text messages and e-mail; taking, sending, receiving, and storing still photographs and moving video; storing and playing back audio files; storing dates, appointments, and other information on personal calendars; and accessing and downloading information from the Internet. Wireless telephones may also include global positioning system ("GPS") technology for determining the location of the device.

b. Digital camera: A digital camera is a camera that records pictures as digital picture files, rather than by using photographic film. Digital cameras use a variety of fixed and removable storage media to store their recorded images. Images can usually be retrieved by connecting the camera to a computer or by connecting the removable storage medium to a separate reader. Removable storage media include various types of flash memory cards or miniature hard drives. Most digital cameras also include a screen for viewing the stored images. This storage media can contain any digital data, including data unrelated to photographs or videos.

c. Portable media player: A portable media player (or "MP3 Player" or iPod) is a handheld digital storage device designed primarily to store and play audio, video, or photographic files. However, a portable media player can also store other digital data. Some portable media players can use removable storage media. Removable storage media include various types of flash memory cards or miniature hard drives. This removable storage media can also store any digital data. Depending on the model, a portable media player may have the ability to store very large amounts of electronic data and may offer additional features such as a calendar, contact list, clock, or games.

d. GPS: A GPS navigation device uses the Global Positioning System to display its current location. It often contains records the locations where it has been. Some GPS navigation devices can give a user driving or walking directions to another location. These devices can contain records of the addresses or locations involved in such navigation. The Global Positioning System (generally abbreviated "GPS") consists of 24 NAVSTAR satellites orbiting the Earth. Each satellite contains an extremely accurate clock. Each satellite repeatedly transmits by radio a mathematical representation of the current time, combined with a special sequence of numbers. These signals are sent by radio, using specifications that are publicly available.

A GPS antenna on Earth can receive those signals. When a GPS antenna receives signals from at least four satellites, a computer connected to that antenna can mathematically calculate the antenna's latitude, longitude, and sometimes altitude with a high level of precision.

e. PDA: A personal digital assistant, or PDA, is a handheld electronic device used for storing data (such as names, addresses, appointments or notes) and utilizing computer programs. Some PDAs also function as wireless communication devices and are used to access the Internet and send and receive e-mail. PDAs usually include a memory card or other removable storage media for storing data and a keyboard and/or touch screen for entering data. Removable storage media include various types of flash memory cards or miniature hard drives. This removable storage media can store any digital data. Most PDAs run computer software, giving them many of the same capabilities as personal computers. For example, PDA users can work with word-processing documents, spreadsheets, and presentations. PDAs may also include global positioning system ("GPS") technology for determining the location of the device.

f. Apps: Phones typically contain programs called "apps," which, like programs on a personal computer, perform different functions and save data associated with those functions. Apps can, for example, permit accessing the Web, sending and receiving e-mail, and participating in Internet social networks.

g. IP Address: An Internet Protocol address (or simply "IP address") is a unique numeric address used by computers on the Internet. An IP address is a series of four numbers, each in the range 0-255, separated by periods (e.g., 121.56.97.178). Every computer attached to the Internet computer must be assigned an IP address so that Internet traffic sent from and directed to that computer may be directed properly from its source to its destination. Most Internet service providers control a range of IP addresses. Some computers have static—that is, long-term—IP addresses, while other computers have dynamic—that is, frequently changed—IP addresses.

h. Internet: The Internet is a global network of computers and other electronic devices that communicate with each other. Due to the structure of the Internet, connections between devices on the Internet often cross state and international borders, even when the devices communicating with each other are in the same state.

4. Based on my training, experience, and research, I know that the Device has capabilities that allows it to serve as a wireless telephone, digital camera, portable media player, GPS navigation device, PDA, tablet, and pager. In my training and experience, examining data stored on devices of this type can uncover, among other things, evidence that reveals or suggests who possessed or used the Device.

5. A cellular telephone or mobile telephone is a handheld wireless device used primarily for voice communication through radio signals. These telephones send signals through networks of transmitter/receivers called "cellular," enabling communication with other cellular telephones or traditional "land line" telephones. A cellular telephone usually includes a "call log," which records the telephone number, date, and time of calls made to and from the phone. In addition to enabling voice communications, cellular telephones offer a broad range of capabilities. These capabilities include, but are not limited to: storing names and phone numbers in electronic "address books;" sending, receiving, and storing text messages and email; taking, sending, receiving, and storing still photographs and moving video; storing and playing back audio files; storing dates, appointments, and other information on personal calendars; and accessing and downloading information from the Internet. Cellular telephones may also include global positioning system ("GPS") technology for determining the location of the device.

6. Affiant is aware through training and experience, as well as information from other Investigators with extensive experience in drug trafficking investigations, individual drug traffickers and DTOs commonly utilize cellular telephones to transmit

and receive information via voice calls, text messages, e-mails, and direct connect capabilities in furtherance of their drug trafficking efforts. It is also common for individual drug traffickers and DTOs to store contact lists, records of sent and received voice calls, records of sent and received text messages, records of sent and received direct connect calls, records of sent and received e-mails, records of sent and received photographs, electronically via the physical memory stored within the phone, the "sim" card contained in the phone, and / or the electronic media memory storage card stored within the phone.

7. Beginning July of 2015, Your Affiant and members of the Drug Enforcement Administration (DEA) Task Force, initiated an investigation into a methamphetamine drug trafficking organization in the Fort Worth/Arlington area, headed by Robert Rosales of Arlington, Texas. Your Affiant is aware that, during the course of the conspiracy, Rosales and others did in fact use cellular telephones to communicate, to store contact information, and to locate others via GPS information.

8. During the investigation, the DEA Task Force learned CHADWICK DALE HERNANDEZ and Jose Albino Garza were arrested in Tulsa, Oklahoma on September 8, 2015, by Oklahoma Highway Patrol (OHP), while in possession of approximately three pounds of methamphetamine. OHP Agents discovered a billfold belonging to Robert Rosales inside the vehicle HERNANDEZ and Garza were concealing the methamphetamine in.

9. The OHP Agents informed the DEA Agents of the arrest. OHP reported CHADWICK HERNANDEZ possessed a cellular telephone (Attachment A), which was seized for evidentiary purposes by OHP Agent Branson Perry and placed into the OHP Property room. Your Affiant contacted Agent Perry and requested information related to the cellular phone. Agent Perry informed Your Affiant that the cellular telephone belonging to HERNANDEZ was still in the custody of OHP Property room. Your Affiant requested Agent Perry to transfer custody of the cellular telephone (Attachment A) to Your Affiant.

10. On January 24, 2017, your Affiant received the cellular telephone from Agent Perry, which was seized from CHADWICK HERNANDEZ on September 8, 2015. HERNANDEZ, along with Carlos Cortinas and David Piper, Jr., were charged with conspiracy to possess with the intent to distribute methamphetamine in the Northern District of Texas in case number 4:16-CR-278-O. HERNANDEZ is presently awaiting trial, scheduled March 20, 2017.

11. Based upon the foregoing facts and circumstances, Your Affiant believes that photographs, videos, audio recordings, text messages, contact information, GPS and other digital information, which may be stored in electronic, magnetic, optical, or other digital form are contained in the above-described cellular telephone and requests to search the cellular telephone for evidence related to drug trafficking to include any photographs, videos, audio recordings, contact and address lists, text messaging, GPS information, and digital information which can be interpreted by a computer and any of its related

components, which may be stored in electronic, magnetic, optical, or other digital form.

Your Affiant believes the cellular telephone depicted in Attachment A contains information related to illicit sales of methamphetamine by HERNANDEZ, PIPER, CORTINAS, GARZA and ROSALES.

12. The cellular telephone belonging to HERNANDEZ has remained in the custody of Law Enforcement since the date the telephone was seized. On January 24, 2017, your Affiant photographed said phone, attached said photographs hereto (Attachment A) and said photographs shall be incorporated as if written herein. In my training and experience, examining data stored on devices of this type can uncover, among other things, evidence that reveals or suggests who possessed or used the Device.

#### **ELECTRONIC STORAGE AND FORENSIC ANALYSIS**

13. Based on my knowledge, training, and experience, I know that electronic devices can store information for long periods of time. Similarly, things that have been viewed via the Internet are typically stored for some period of time on the Devices. This information can sometimes be recovered with forensics tools.

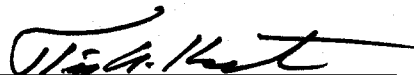
14. *Forensic evidence.* As further described in Attachment B, this application seeks permission to locate not only electronically stored information that might serve as direct evidence of the crimes described on the warrant, but also forensic evidence that establishes how the Devices were used, the purpose of its use, who used it, and when.



There is probable cause to believe that this forensic electronic evidence might be on the Devices because:

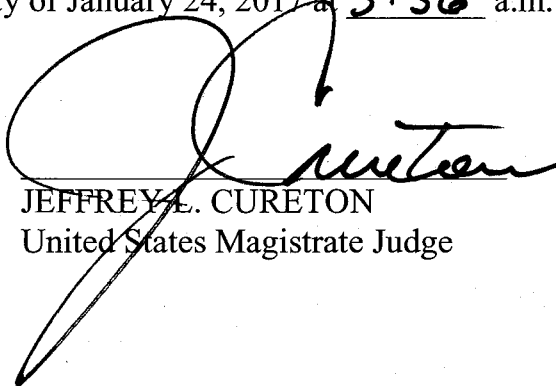
- i. Data on the storage medium can provide evidence of a file that was once on the storage medium but has since been deleted or edited, or of a deleted portion of a file (such as a paragraph that has been deleted from a word processing file).
- j. Forensic evidence on a device can also indicate who has used or controlled the device. This “user attribution” evidence is analogous to the search for “indicia of occupancy” while executing a search warrant at a residence.
- k. A person with appropriate familiarity with how an electronic device works may, after examining this forensic evidence in its proper context, be able to draw conclusions about how electronic devices were used, the purpose of their use, who used them, and when.
- l. The process of identifying the exact electronically stored information on a storage medium that are necessary to draw an accurate conclusion is a dynamic process. Electronic evidence is not always data that can be merely reviewed by a review team and passed along to investigators. Whether data stored on a computer is evidence may depend on other information stored on the computer and the application of knowledge about how a computer behaves. Therefore, contextual information necessary to understand other evidence also falls within the scope of the warrant.
- m. Further, in finding evidence of how a device was used, the purpose of its use, who used it, and when, sometimes it is necessary to establish that a particular thing is not present on a storage medium.
- n. The electronic device is an instrumentality of the crime because it is used as a means of committing the criminal offense. The electronic device is also likely to be a storage medium for evidence of crime. From my training and experience, I believe that an electronic device used to commit a crime of this type may contain: data that is evidence of how the electronic device was used; data that was sent or received; and other records that indicate the nature of the offense.

15. *Nature of examination.* Based on the foregoing, and consistent with Rule 41(e)(2)(B), the warrant I am applying for would permit the examination of the Devices consistent with the warrant. The examination may require authorities to employ techniques, including but not limited to computer-assisted scans of the entire medium, that might expose many parts of the device to human inspection in order to determine whether it is evidence described by the warrant.



Tim Kasterke  
DEA Task Force Officer

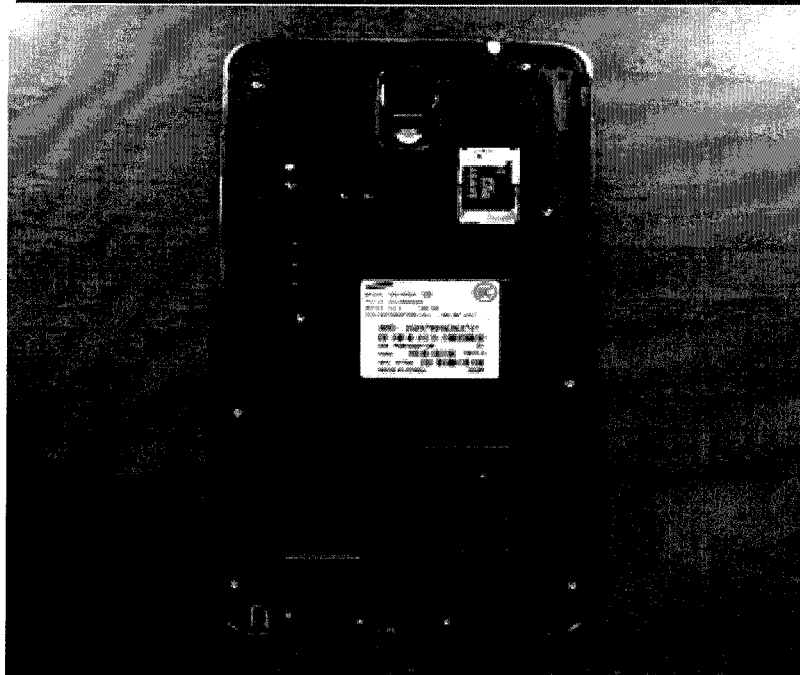
Sworn to before me this 24<sup>th</sup> day of January 24, 2017 at 3:36 a.m. (p.m.) in Fort Worth, Texas.



JEFFREY L. CURETON  
United States Magistrate Judge

### ATTACHMENT A

One Black and silver colored Samsung Galaxy Note 3 cellphone, model SM-N900A, FCC ID A3LSMN900A, Serial number R38F4029YSB, IMEI #358579056363741 currently located at DEA Fort Worth DO, which is presently located at the DEA Fort Worth District Office (FWDO) 801 Cherry Street, Suite 700, Fort Worth, Texas.



**ATTACHMENT B**

1. All records on the Device described in Attachment A that relate to violations of 21

U.S.C. §§ 846 and 841(a)(1), including

- a. Any and all lists of names, telephone numbers, and addresses contained on the Device;
- b. Any and all names and phone numbers of persons who contacted or were contacted by this Device;
- c. Images, pictures, photographs, and videos sent or received by the Device;
- d. The content of any and all text and multimedia messages and emails on the Device, including text and multimedia messages and emails sent or received, draft, deleted, or retained;
- e. The content of any and all voice mail messages;
- f. Any information which indicates and/or is related to contact with individuals for the purposes of engaging in the manufacture, distribution, or dispensation, or possession with intent to manufacture, distribute, or dispense, a controlled substance for which a person can be charged with a criminal offense, or related to violations of 21 U.S.C. §§ 846 and 841(a)(1);
- g. Any and all evidence of passwords needed to access the Device;
- h. Any and all GPS information stored on the phone;

- i. Any and all records, showing dominion, ownership, custody, or control over the Device;
- j. All documents, including all temporary and permanent electronic files and records, (including, but not limited to, JPG, GIF, TIF, AVI, WAV and MPEG files) which concern or relate to related to contact with individuals for the purposes of engaging in the manufacture, distribution, or dispensation, or possession with intent to manufacture, distribute, or dispense, a controlled substance for which a person can be charged with a criminal offense, or related to violations of 21 U.S.C. §§ 846 and 841(a)(1); and
- k. Correspondence pertaining to contact with individuals for the purposes of engaging in the manufacture, distribution, or dispensation, or possession with intent to manufacture, distribute, or dispense, a controlled substance for which a person can be charged with a criminal offense, or related to violation of 21 U.S.C. §§ 846 and 841(a)(1); and
- l. Records and information pertaining to contact with individuals for the purposes of engaging in the manufacture, distribution, or dispensation, or possession with intent to manufacture, distribute, or dispense, a controlled substance for which a person can be charged with a criminal offense, or related to violation of 21 U.S.C. §§ 846 and 841(a)(1).

2. Evidence of user attribution showing who used or owned the Device at the time the things described in this warrant were created, edited, or deleted, such as logs, phonebooks, saved usernames and passwords, documents, browsing history, registry entries, configuration files, user profiles, email, email contacts, "chats," instant messaging logs, photographs, and correspondence;
3. Records evidencing the use of Internet Protocol addresses used by the Device to communicate with mail servers or other devices, including:
  - a. records of Internet Protocol addresses used;
  - b. records of Internet activity, including firewall logs, caches, browser history and cookies, "bookmarked" or "favorite" web pages, search terms that the user entered into any Internet search engine, and records of user-typed web addresses.

As used above, the terms "records" and "information" include all of the foregoing items of evidence in whatever form and by whatever means they may have been created or stored, including any form of computer or electronic storage (such as flash memory or other media that can store data) and any photographic form.